

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAMION NEVILLS, JR., #847918,

Petitioner,

v.

CASE NO. 17-CV-12464
HONORABLE MARK A. GOLDSMITH

RANDALL HASS,

Respondent.

**ORDER DENYING APPLICATION TO PROCEED IN FORMA PAUPERIS ON
APPEAL (Dkt. 25) AND TRANSFERRING REQUEST TO THE SIXTH CIRCUIT**

This matter is before the Court on Petitioner's application to proceed in forma pauperis on appeal (Dkt. 25) concerning the denial of his motion for relief from judgment (Dkt. 20). The standard for granting an application to proceed in forma pauperis on appeal is whether the appeal is being taken in good faith. See 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a); Foster v. Ludwick, 208 F. Supp. 2d 750, 764-765 (E.D. Mich. 2002). "Good faith" requires a showing that the issues raised are not frivolous; it does not require a showing of probable success on the merits. Foster, 208 F. Supp. 2d at 765. Having considered the matter, the Court concludes that an appeal of the Court's decision cannot be taken in good faith. Accordingly, the Court denies the application to proceed in forma pauperis on appeal.

When a district court denies a certificate of appealability or denies leave to proceed in forma pauperis on appeal, the proper procedure is for the habeas petitioner to file a motion for a certificate of appealability and/or an application for leave to proceed in forma pauperis on appeal with the appellate court. See Sims v. United States, 244 F.3d 509 (6th Cir. 2011) (citing Fed. R.

App. P. 22(b)(1)). Accordingly, in the interests of justice, the Court transfers the application to proceed in forma pauperis on appeal (Dkt. 25) to the United States Court of Appeals for the Sixth Circuit.

SO ORDERED.

Dated: July 2, 2020
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on July 2, 2020.

s/Karri Sandusky
Case Manager